

# SENATE, No. 2643

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 10, 2007

**Sponsored by:**  
**Senator JOSEPH V. DORIA, JR.**  
**District 31 (Hudson)**

### **SYNOPSIS**

Permits a local realty transfer fee on property located in cities of the first class.

### **CURRENT VERSION OF TEXT**

As introduced.



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1 AN ACT establishing a local realty transfer fee on property located  
2 in certain municipalities, and amending and supplementing  
3 P.L.1968, c.49.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

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8 1. Section 2 of P.L.1968, c.49 (C.46:15-6) is amended to read  
9 as follows:

10 2. In addition to other prerequisites for recording, no deed  
11 evidencing transfer of title to real property shall be recorded in the  
12 office of any county recording officer unless it satisfies the  
13 following requirements:

14 a. If the transfer is subject to any fee established under section  
15 3 of P.L.1968, c.49 (C.46:15-7) **[or]**, section 2 of P.L.2003, c.113  
16 (C.46:15-7.1), or section 2 of P.L. , c. (C. ) (pending before  
17 the Legislature as this bill), a statement of the true consideration for  
18 the transfer shall be contained in the deed, the acknowledgment, the  
19 proof of the execution, or an appended affidavit by one of the  
20 parties to the deed or that party's legal representative.

21 b. If the transfer is exempt from any fee established under  
22 section 3 of P.L.1968, c.49 (C.46:15-7) **[or]**, section 2 of P.L.2003,  
23 c.113 (C.46:15-7.1), or section 2 of P.L. , c. (C. ) (pending  
24 before the Legislature as this bill), an affidavit stating the basis for  
25 the exemption shall be appended to the deed.

26 c. If the transfer is of real property upon which there is new  
27 construction, the words "NEW CONSTRUCTION" in upper case  
28 lettering shall be printed clearly at the top of the first page of the  
29 deed, and an affidavit by the grantor stating that the transfer is of  
30 property upon which there is new construction shall be appended to  
31 the deed.

32 (cf: P.L. 2004, c.66, s.2)

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34 2. (New section) a. A municipality that is a city of the first  
35 class, by ordinance, may impose a local realty transfer fee on the  
36 conveyance or transfer of real property within the municipality, to  
37 be paid to the county recording officer by the grantor at the time the  
38 deed is offered for recording, in the amount of \$0.50 per \$500 of  
39 consideration or fractional part thereof recited in the deed. The  
40 local realty transfer fee authorized by this section shall be in  
41 addition to the realty transfer fees imposed by P.L.1968, c.49  
42 (C.46:15-1 et seq.), section 2 of P.L.2003, c.113 (C.46:15-7.1), and  
43 section 8 of P.L.2004, c.66 (C.46:15-7.2). A municipality that  
44 adopts an ordinance pursuant to this section shall forward to the  
45 county recording officer a certified copy of the ordinance. An

**EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

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1 ordinance so adopted shall provide that the imposition of the local  
2 realty transfer fee shall apply to conveyances and transfers of real  
3 property occurring on or after the first day of the third month next  
4 following the date of the transmittal to the county recording officer.

5 b. The proceeds of the local realty transfer fee collected by the  
6 county recording officer pursuant to this section shall be accounted  
7 for and remitted to the county treasurer. The county treasurer shall  
8 pay to the chief financial officer of the municipality, for the use of  
9 the municipality, the amount of local realty transfer fee revenue  
10 collected by the county recording officer on the tenth day of each  
11 month following the month of collection.

12 c. The local realty transfer fee imposed by subsection a. of this  
13 section is not applicable to a conveyance or transfer that is:

14 (1) made by a deed described in section 6 of P.L.1968, c.49  
15 (C.46:15-10);

16 (2) the sale of any one- or two-family residential premises  
17 which are owned and occupied by a senior citizen, blind person or  
18 disabled person who is the seller in such transaction; provided,  
19 however, that except in the instance of a husband and wife no  
20 exemption shall be allowed if the property being sold is jointly  
21 owned and one or more of the owners is not a senior citizen, blind  
22 person or disabled person;

23 (3) the sale of low and moderate income housing; or

24 (4) concerning property owned by an organization determined  
25 by the federal Internal Revenue Service to be exempt from federal  
26 income taxation pursuant to paragraph (3) of subsection (c) of  
27 section 501 of the federal Internal Revenue Code of 1986 (26  
28 U.S.C. s.501).

29 d. A fee imposed by subsection a. of this section is subject to  
30 the provisions of the State Uniform Tax Procedure Law, R.S.54:48-  
31 1 et seq.

32 e. Every deed subject to the fee imposed by subsection a. of  
33 this section, which is in fact recorded, is conclusively deemed to  
34 have been entitled to recording, notwithstanding that the amount of  
35 the consideration was incorrectly stated, or that the correct amount  
36 of the fee was not paid, and no such defect shall in any way affect  
37 or impair the validity of the title conveyed or render the same  
38 unmarketable; but the person or persons required to pay that  
39 supplemental fee at the time of recording shall be and remain liable  
40 to the county recording officer for the payment of the proper  
41 amount thereof.

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43 3. This act shall take effect immediately.

STATEMENT

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This bill permits a municipality that is a city of the first class, by ordinance, to impose a local realty transfer fee on the conveyance or transfer of real property within the municipality, to be paid to the county recording officer by the grantor at the time the deed is offered for recording, in the amount of \$0.50 per \$500 of consideration or fractional part thereof recited in the deed. The local realty transfer fee would be in addition to the realty transfer fees currently imposed by law.

Under the provisions of the bill, a municipality that adopts an ordinance imposing a local realty transfer fee must forward to the county recording officer a certified copy of the ordinance. The ordinance must provide that the imposition of the local realty transfer fee shall apply to conveyances and transfers of real property occurring on or after the first day of the third month next following the date of the transmittal to the county recording officer.

Under the bill, the proceeds of the local realty transfer fee collected by the county recording officer must be accounted for and remitted to the county treasurer. The county treasurer is required to pay to the chief financial officer of the municipality, for the use of the municipality, the amount of local realty transfer fee revenue collected by the county recording officer on the tenth day of each month following the month of collection.

Under the provisions of the bill, the local realty transfer fee cannot be imposed on a conveyance or transfer that is:

- (1) made by a deed described in section 6 of P.L.1968, c.49 (C.46:15-10);
- (2) the sale of any one- or two-family residential premises which are owned and occupied by a senior citizen, blind person or disabled person who is the seller in such transaction; provided, however, that except in the instance of a husband and wife no exemption shall be allowed if the property being sold is jointly owned and one or more of the owners is not a senior citizen, blind person or disabled person;
- (3) the sale of low and moderate income housing; or
- (4) concerning property owned by an organization determined by the federal Internal Revenue Service to be exempt from federal income taxation pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.501).